

REMARKS

Claims 1, 3-4, 8, 10, 14-19, 23-31, 33-34 and 38-41 are in the case. Claims 2, 5-7, 9, 11-13, 20-22, 32 and 35-37 are cancelled without prejudice or disclaimer.

Amendment to the Specification:

Paragraph [0001] is amended to update information regarding "Copending Applications."

Amendment to the Claims:

Claims 1, 8, 14, 23 and 31 are amended to reflect previous election of the species of halogen stabilizer, bromine source and alkali metal or alkaline earth metal base.

Claims 3, 10, 29, 30 and 33 are amended to correctly state dependencies in light of claims cancelled herein. Claim 30 is further amended to correct the spelling of "composition".

Claim 1 is amended to include features of original Claim 2, now cancelled and to provide the article "an" for "an apparatus."

Claim 8 is amended to include features of original Claim 9, now cancelled.

Claims 14, 23 are amended to include features of mechanical transport of poultry carcasses during processing. Support for these amendments can be found in the Specification at least at paragraph [0016], lines 1-12; paragraph [0017], lines 3-4 and 10-12; paragraph [0015], lines 1-4; paragraph [0018], lines 20-21; paragraph [0019], lines 1-12; paragraph [0020], lines 1-14; paragraph [0023], lines 2-3; and Claims 2, 3, 9, 17, and 19, as originally filed.

Claim 31 is amended to include features of original Claim 32, now cancelled.

New Claims 38-41 are added to include features of bromine residual amounts. Support for these new claims can be found in the Specification at least at paragraph [0024], lines 10-14.

No new matter is added by these amendments, and Applicant by no means intends to limit the scope of the subject claimed via this amendment. No additional fees are incurred by adding four (4) new claims, since 15 original claims are being cancelled herein.

Items of the Office Action:

Item 1 - Informalities:

Original Claim 9, line 5 is objected to as having incorrectly used the phrase “where in.” While original Claim 9 is cancelled, Applicant respectfully submits that the original use of the phrase “where in” is proper and intentional. Therefore, no change is made to language now included in amended Claim 1. Claim 9, line 6 is objected to as using the verb form “is”. The language of original Claim 9, in this regard, was changed in amended Claim 1.

Original Claim 32, line 2 is objected to as: missing “an”; spelling of “carcass” and verb form of “is”. Claim 32 has been cancelled without prejudice or disclaimer. Language of amended Claim 31 reflects correction of these items.

Item 2- no response necessary, as it is a recitation of 35 U.S.C. §103(a).

Item 3 - Rejection of Claims 1-4; 7-10; 13-19; 22-28; 29/1-4, 7; 30/14-19, 22; 31-34 and 37 under 35 U.S.C. §103(a):

The above referenced claims stand rejected under 35 U.S.C. §103(a) as being unpatentable over Howarth (US 6,986,910) (“Howarth I”) or Howarth (US 6,908,636) (“Howarth II”) in view of Hilgren et al. (US 6,514,556) (“Hilgren”), Howarth et al. (US 6,919,364) (“Howarth III”) and Yang et al. (US 6,123,870) (“Yang”). Applicant respectfully traverses the rejection of these claims.

Designated primary references Howarth I and Howarth II qualify as prior art only under 35 U.S.C. 102(e) and have a common Assignee with the present application. Since the present application was filed on or after November 29, 1999, and in as much as the present application (10/603,130), Howarth I (US 6,986,910) and Howarth II (US 6,908,636) were, at the time the invention of the present application was made, owned by Albemarle Corporation, Howarth I and Howarth II are disqualified as §103 references. Please see in this regard 35 U.S.C. §103(c).

However, since the International Publication, WO 03/001931 A1 (“Howarth WO”), having a publication date of January 9, 2003, a counterpart of Howarth II, it will be substituted in this reply in the stead of Howarth II. A copy of Howarth WO is provided herewith for the Examiner’s convenience.

It is well settled that in applying Section 103(a), it is necessary to consider each and every limitation set forth in the claims. No limitations can be ignored. A rejection which fails to consider all claim limitations is improper and non-sustainable. *In re Glass*, 176 U.S.P.Q. 489 (CCPA 1973). In deciding obviousness, one must look at the prior art from the vantage point in time prior to when the invention was made.

The Office Action presents a nonsustainable obviousness rejection since Hilgren, Howarth WO, Howarth III and Yang do not describe all features of the presently amended Claims.

The Office Action cites only Hilgren as evidence of inside-outside washing application procedures, and Hilgren does not describe many features of the present claims, as amended. Hilgren describes poultry processing methods which include use of transport via conveyor through Hilgren's first scalding step. See Hilgren, Column 16, lines 35-56. Hilgren does not, however, describe transport via any automatic mechanical transport into and/or through the inside-outside washing apparatus, as included in the features of presently amended Claims 1 and 31. Neither does Hilgren, or any of the other cited references, disclose mechanically transported poultry carcasses as claimed in amended or original Claims 8, 10, 14, 17, 23, 26 and 33.

Furthermore Hilgren lacks any teaching of providing inside-outside washing which allows contaminants and microbiocidal compositions to drain from the carcass. Compare Hilgren, Column 17, lines 25-55 with present Claims 3 and 27, and Claim 33, as amended. Hilgren also fails to provide any description of rinsing with clear water after chilling, but, in fact, advocates washing with mixed peroxycarboxylic acid compositions after chilling. Compare Hilgren Column 18, lines 59-64 with present Claims 24 and 25.

Regarding Claims 38-41, these claims are supported by the Specification and are patentable over the cited references based on the features discussed above, as well as the additional features included in these claims.

In conclusion, since the Examiner's rejection of the Claims for obviousness fails to consider all claim limitations and fails to cite one or a combination of references which teach all of the features of the present Claims, the rejection is inapplicable and non-sustainable. In view of the foregoing, the rejection of the Claims under Section 103(a) should be reconsidered and withdrawn.

Items 4-6 -Concerning nonstatutory obviousness-type double patenting rejection of Claims 1-4; 7-10; 13-19; 22-28; 29/1-4, 7; 30/14-19, 22; 31-34 and 37 over Claims 1-19 of Howarth I and Claims 1-22 of Howarth II.

In order to facilitate processing and allowance of this application, a single Terminal Disclaimer document is enclosed, including Terminal Disclaimers for the two (2) patents, US 6,986,910 and US 6,908,636, together with a paper authorizing payment from a Deposit Account of the requisite fee for recording the Terminal Disclaimers. Thus these double patenting rejections no longer apply.

Item 7. - Objection to Informalities of the Disclosure at Paragraph [0001].

Paragraph [0001] is amended to update the current status of each application set forth therein.

In view of all of the foregoing, favorable action on all of the Claims is solicited. If matters remain requiring further consideration that may be expedited by discussion, the Examiner is requested to telephone the undersigned at the number given below so that such matters may be discussed and, if possible, promptly resolved.

Please continue to address correspondence in this application to Mr. Spielman at the address of record.

Respectfully submitted,

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